

THE SASSANIAN MATRIMONIAL RELATIONS

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بگوی از مزدکم، از بابکم از صلح و انسائم.
 ز خاک گرم ایرانم، زارث دیهقانانم.
 از ایرانم، از ایرانم، از ایرانم، از ایرانم.
 از ایرانی که شعرش از غنوی بردست می رقصد...

I give below an abstract of a section of an oncoming publication comprising the Pahlavi and New Persian materials on the Sassanian social and family relations which include almost all the relevant passages from the *Mātigān i Hazār Dātistān*, *Dātistān i Dēnik*, *Dēnkart*, *Nīrangistān*, *Artāy Virāz Nāmak*, *Rivāyat i Ēmēt i Ašavahištān*, *Pahlavi Rivāyat Dd.*, *Persian Rivāyat* of Dārābhormazdyār, *Šaā Dar i Bundahiš*, etc. The elaboration of these materials forms the subject of a second volume. The main object of the present paper being the elucidation of certain cardinal concepts justifying, as a whole, the traditional Zoroastrian teachings rejected and misunderstood by many scholars in the West, I have confined myself, as far as possible, to the original texts, however, in an abstract form. The confused, quasi-mutilated and time-worn MSS with their cryptic, terse and austere language are still eloquent enough to speak for themselves. Similarly, a comparative study showing the gradual modification of many canon laws and practices, or elaboration of the sentences in greater detail, falling beyond the scope of the present article, have not been attempted; neither have I discussed here the divergent opinions of the scholars who have already attempted an interpretation of these passages with the exception of a few cases of essential importance ill-considered by P. J. de Menasce and Ch. Bartholomae. References are given in order of significance, among which the *Mātigān* stands unique.

Authoritative decree versus traditional practice (*kartak*)

Throughout the Pahlavi law-books distinction has been made between the traditional laws or customary practices called *kartak* and the enacted laws or decrees, i.e. between that which has been settled or established by custom and tradition and the authoritative decrees or judicial sentences pronounced by various jurisconsults. In terms of English law they may be rendered approximately into the statute and common law. In the religious or didactic writings the *kartak* stands

in opposition to the *čāštak* [teachings] of the ancient teachers (*pōryōt-kēšān*). In one instance *kartak* is contrasted with *dātistān*, although this signifies as a rule, all kinds of codified civil laws and juridical decrees. *MHD.* I. 36,2—5: *xʷah ut duxt kē yut hač hōnsandih i sardār tan pat zanih bē dahēt, zanih *nē xūp ... būt kē guft ku-š dātistān dahišn, bē pat kartak nē dārēnd.* 'If a sister or daughter gives herself in marriage without the guardian's consent, that marriage is not valid ... there was a [jurisconsult] who maintained that according to the juridical decrees [she] may be given [sanction to marry], but it is not held to be proper in the traditional practice.' Further instances may be found in *MHD.* I. 9,4—10; I. 23,14—17; I. 31,4—5; I. 44,2—3; I. 49,3—6; I. 61,16—62,2 and the entire chapter '*dar i vāčak i čand pat kartak dāštan govēnd ut apar-ič*,' *MHD.* II. 12,10. In another instance the enacted juridical decree has been termed *sāxtak* [lit. made, i.e. enacted]: ... *ut-aš kartak ōgōn apāk ku sāxtak bē šavēt ...* 'and its traditional practice is the same as the enacted law', *MHD.* I. 4,13. (Cf. de Menasce, *Feux et fondations pieuses dans le droit sassanide*, 1963, p. 21; Pagliaro, *RSO*, 23, 53 ff.)

Types of Marriage

The extant *Mātigān i Hazār Dātistān* devotes three chapters to three types of legally recognized marriage institutions: authorized marriage (*zanih zan pātixšāyihā*), *MHD.* I. 36,2; levirate (*stūrih*), *MHD.* I. 41,1; and the *oyōk-hē* 'a kind of *stūrih*', *MHD.* I. 21,4—5. Another case tolerated by some jurisconsults, but forbidden by the common law (*kartak*) is when a maiden marries without her guardian's consent (*yut hač hōnsandih i sardār*) — obviously a case of irregular marriage called **xʷā-rāda*, *MHD.* I. 36,2—5. *The Marriage Contract* (*Pahlavi Texts* II. 141—3) also mentions three juridically admissible cases, namely, *pātixšāyihā*, *stūrih*, and *ayōkēnih*. The *Pers. Riv.* recounts five types of marriage institutions whereby the woman assumes the status of either a *pādašāh*, *ayōk* [*ayōkē*, *ayōkēn*], *satar* [*sutūr*], *čakar* [*čākar*, *čayar*], or *xʷad-rāy* [*xʷadaš-rāy*, *xʷad-sarāy*] wife, I. 180 ff.

We may, accordingly, classify the Sassanian marriage systems into lawful and unlawful. The lawful types are those of the authorized [*pātixšāyihā*], and the *stūrih*, itself subdividing into various forms two of which are the *ayōkēnih* and *čakarih*. The unlawful or, better to say, irregular unions include the two cases of the **xʷā-rāda* and *bē astān* matrimony.

1. *pātixšāyihā* marriage

Its definition may be inferred indirectly from the *MHD.* I. 36,2—5 as a marriage contracted with the sanction of the woman's guardian

(*sardār*). The *Marriage Contract* dealing with such a marriage states: 'A person named so-and-so ... took to himself as wife in authorized condition a maiden named so-and-so, the authorized daughter of so-and-so ... under the guardianship of so-and-so ... by asking (for her hand) (*pat x^oāstan*) and with the consent and unanimity of the said father (*dāt i hač vahmān pit hōnsandih ut ham-dāristānih*).' *PT*. II, 141. The *Pers. Riv.* describes an authorized wife as such a wife who 'on entering the husband's house shall belong to the husband in this and the other world,' p. 180: 'she should be wedded with her as well as the guardian's (*sālār*) consent', p. 182. Cf. *MHD*. 97,7—11: *vitart hān mart hān zan šōd apar ō mānēt*. '[if] that man passes away, that woman will be left (the wife) of that husband.' She, as well as the *pātxšāy* daughter, is entitled to her own income, *MHD*. I. 36,16—17. If dutiful, she may partake of the husband's property, and even give away, if he has not stated otherwise, with the exception of land, water [-course], house and two full slaves, *MHD*. I. 33,9—11. She may spend up to 210 *drahms* of the husband's property every year. *Phl. Riv. Dd.* 120,10—13. The marriage portion settled on the *pātxšāy* wife is traditionally set at 500 *stērs* or 2000 *drahms*, i.e. *mihr* i *vir-masāy* (the contract to the amount of one human being) *V*. 4,44 [Darmesteter, *The Zend-Avesta*, p. 45, n. 3]; *DkM*. 715,5—6; *Pers. Riv.* I. 183 gives 2000 *dirhams* and 2 *dinārs*; The *Marriage Contract*, *PT*. II. 141—143, gives 3000 *drahms* by mistake. This explains the origin and etymology of the NP. *mihr*, mistakenly considered Arabic and Arabized into *mahr*, *mahriyya* (dower), as coming from Av. *miθra-*, *Phl. mihr* (contract). She may be made her own guardian and given freedom over her own person (*pat tan i x^oēs sardār ut pātxšāy*) in order to marry another person (of course as a *čakar* wife) and provide the former *pātxšāy* husband with offspring and maintain his lineage, *MHD*. I. 3,10—11: *ka o zan govēt ku-m pat x^oēstan sardār ut pātxšāy kart hē, nē hilišn, bē-š pātxšāyih(ā) pat šōd i čakar kartan dāt bevēt*; *MHD*. I. 3,15—4,1. The husband may even wed her to a co-religionist who is in want of wife and children because of poverty, *MHD*. I. 101,4—8: ... *mart zan i pātxšāyihā ō ōy i pat frazand niruzd ut pat hān niruzdih avinās, ut x^oāyīšn i pat zan-dātihā kart ēstēt yut-ič hač ham-dāristānih i zan dāt pātxšāy*. 'The husband is authorized to give (in marriage) the authorized wife, even without her consent, to him who is in need of offspring, and as regards that privation is innocent, and has asked for espousing a wife.' The *Dēnkart* interprets this as making a gift of her (*dāsr* i *vir-masāy zan*), in which *dāsr*, Av. *dāθra-*, is used for *ahlav-dāt*. *DkM*. 715,—6. However, she may not cohabit with both of them. *Nir*. 15,26—29. This injunction goes back to *V*. 4,44. This and similar passages of the *Mātīgān* have been misinterpreted by Bartholomae [*ZSR*. I. 29—30; 36 ff.] as a type of 'temporary' marriage ('Zwischen-

ehe'), and the right of husband to offer his wife to other people for cohabitation! For such a grave sin *v. infra* P. 343. If she has no husband or guardian, she is free to cohabit with whomsoever she chooses; however, the bed-fellow shall become her husband, *MHD*. I. 83,6—7, her *sardār*, II. 31,5—8; *REA. Pursišn* 5, p. 20.

2. The *stūrih*

In its most general sense of 'trusteeship, safeguarding the tradition or cause of s. th.' it is given in the *DkM*. 537,1—3: *ut-šān ēn-ič ōgōn dāšt ku myazd stūrih(i)yazdān, ut ātaxš i vrahṛān stūrih i Gayōmart, ut gāhānbār stūrih i dēn*. 'And they have further maintained that the *myazd* ceremony is a trust from God, the Fire of *Vrahṛān* a trust from *Gayōmart* and *gāhānbārs* a trust from the Religion'. Again *DkM*. 407,7—9: (*ut*) *hamistiḥā kart pat vēh-dēn nimūtārih ēn i nāmēnit pat stūrih mānākih i hač hān vazurg bun dēnkart, hazār-darak*. 'And I (*Āturpāt i Ēmētān*) compiled this work called *Dēnkart*, of one thousand chapters, as a lasting trust from that lofty source for the exposition of (or as a guide to) the Good Religion.' The *stūrih* (trusteeship) of the *ātaxš* (Fire) is frequently mentioned in the *MHD*: *ka ātaxš pat stūrih nišānēt ut ō. ātaxš vizand pat sačišn rasēt ōgōn sahēt ku pēš-ič hač apāč nišāst i ātaxš stūr nē gumārišn*. 'If someone establishes a Fire in trusteeship (i.e. to be maintained by trustees in succession) and the Fire becomes damaged to the point of dying out, it is considered best not to appoint a trustee before re-establishing it.' (de Menasce unwarrantedly amends *sačišn* to *sōčišn*, *Feux et fondations*..., p. 19), *MHD*. I. 50,3—4.

In its specialized sense as levirate of the Zoroastrian type the *stūrih* is attested in the *Mātīgān* in the following passages in that they clearly establish the *stūrih* as 1. a kind of marriage, and 2. to provide an issueless man with male offspring. The *MHD*. I. 97,7—11 states that a *pātxšāy* wife is bound by duty to institute a *stūrih* for her deceased husband, since she continues to be his wife even after his death [... *ka vitart hān mart hān zan šōd apar mānēt ut stūr i hān mart bavēt*]. The following attest the fact that the *stūrih* is a kind of marriage institution: *MHD*. I. 50,9—12: ... *ka ē stūrih hast zihānak¹ dārišn, be ēvar ku hān zan pātxšāy ka zanih hān mart nē kunēt*. '... if there is one *stūrih* (to be contracted) the woman (lit. fertile woman) should

¹ *zh^hnk*, West has read *ziyānak*, and Bartholomae *zyānak*. I prefer *zihānak* or *zahānak* (? *zahakēnak*) (bearing woman, breeder) from *zih-* / *zah-* (to bear). Bartholomae erroneously, interprets it as *Zwischenehefrau*, *ZSR*. I. 36 ff. She may be a *pātxšāy* wife, *MHD*. I. 44,3—6, a *stūr*, *MHD*. I. 45,6—8 a *čakar* wife, *MHD*. I. 64,2—6, a maiden, *DkM*. 671,10, (widow) marrying without contract, the man becoming her *sardār*, *Phl. Riv. Dd.* 125,10—12, a **yā-rāda* (runaway maiden), *REA. Pursišn* 43. It translates Av. *vantav-* (a loved wife, mistress) who significantly enough 'will bring forth children'. *V* 3,25. It has survived in the Gabri dialect as *ziyūna* (mistress). She is loved for her fertility.

administer it; however, it must be made certain that that woman is free not to marry that man'. *MHD.* I. 36,9—12: ... *ka mart ō duxt i x^oēš govēt ku rav ut stūrih i vahmān kas kun, duxt pātixšāy ka nē kunēt, čē ēn-ič ōgōn bavēt čēgōn ka-š govēt ku rav ut zanih i vahmān mart kun ut ka nē kunēt pātixšāy.* '... if a man tells his daughter: Go and assume the *stūrih* of so-and-so, the daughter is authorized not to do it, since this would be the same as when he tells her: "Go and marry so-and-so", which she is entitled not to act upon'. Cf. further *Dd. Pursišn* 53, 55, 56, 57, 59; *REA. Pursišn* 7,18; *Pers. Riv.* I. 180 ff. The object of the *stūrih* is to provide the deceased with male offspring (*frazand*). *MHD.* I. 48,16—17: ... *pas hač zātan stūrih, nē sardārih bē kanišn.* '... after begetting (a son) the *stūrih*, and not the *sardārih* may be liquidated'. *MHD.* I. 42,12—14: *hakar dātistān duxt čiš-ič nēst pas stūr čim apāyēt gumārtan, ka[hān]ō zāyēnd hamāk dātistān pus ut hamāk dātistān duxt hēnd.* '... if there is no juridical decree concerning the daughter in this matter, then for what reason a *stūr* should be appointed? When they (the son and daughter) beget a child the juridical judgement would be the same concerning both the son and daughter'. *MHD.* II. 20,8—11: *ka govēt ku x^oāstak i man x^oēš frāč hač man frazand i tō pat zanih i man hačiš zāyēt x^oēš...* 'If one says thus: The property which belongs to me shall after my death belong to your child born in your wedlock with me...' The ninth century Pahlavi religious books are quite explicit about the meaning and object of the *stūrih*: *Dd. Pursišn* 55: ... *stūrih ētōn bavēt ku ka² mart i vēh-dēn... vitarān bavēt ... *x^oatān i hān vitartak *gōhrīk paitāk kunišn(i) [ut] x^oānihēt stūr[ih] ... kē pat hān i ōy nāmākānih ut *patvand rāyēnēt ut x^oāstak dārēt+.*³ '... the *stūrih* is such that when a *vēh-dēn* passes away... the relatives of the deceased should find someone as his substitute (successor) who is called the *stūr* ... who maintains his renown and lineage and administers his property'. Since a person without male issue cannot pass the *Činvat* Bridge, *Pers. Riv.* 180 ff. The idea of *stūrih*, and not adoption, as understood by Bartholomae, is implied in the following Avestan sentence: *upa hē puθrēm fradaḍat ... yahmat hača puθrō haom urvānēm činvat. pərətām *viḍārayat.* 'One has to give him (the deceased issueless person) a son... in order that that son should bring his soul over the *Činvat* Bridge'. *Vič. D.* 26; 17; *AirWb.* 910. The lineage may be maintained only by a male offspring born in *stūrih*: *REA. Pursišn* 18: ... *ka pus nē, bē duxt zāyēt stūrih nē pat raft dārišn.* '... if the *stūr* begets a daughter and not a son, the *stūrih* is not to be considered effectively carried through'. The existence of *stūrih* (leviration) in the pre-Islamic Iran has been attested by the *Sassanid Corpus Juris* (*Syr. Rb.*, Sachau, III, p. 96) where it has

² MS K 35, p. 201 *ka ku*.

³ *Ibid.*, *nāmākānih rāyēnēt patvand dārēt xvāstak.*

been rendered by lšōbōxt into *Syr. ybmwt*². The Persian *Letter of Tansar* faithfully retains the term *abdāl* (substitutes) for *stūrs* and *ibdal* for *stūrih* which are, in all probability, the original Arabic renderings by Ibnu'l-Muqaffa' (Dehkhodā, *Amṣāl-o Ḥekam*, 1630). Hence, the *stūr* must have meant a substitute wife or husband, and in its general sense 'a deputy, trustee'. This is confirmed by a significant sentence of the *Dd. Pursišn* 55 already considered above where the *stūr* has been explained as the *gōhrīk* (substitute) of the deceased with certain specific functions. And lastly, a child begotten by *stūrih* is regarded as one's own offspring, capable to maintain the lineage: *MHD.* II. 35,14—16: ... *pat gōvišn i Vēh-Šāpuhr nipišt ēstēt ku hān i stūrih ... man frazand ut āvātak* (**wb'tk*) *bavēnd.* '... It is written from the sayings of Vēh-Šāpuhr that those (children begotten) by *stūrih* are to me as my children and descendants.' These establish the *stūrih* in one of its senses as a type of levirate.

Qualifications for the *stūrih*

According to the *Mātigān* the *stūr* must be innocent of any *margarzān* sin, *MHD.* I. 97,14—16. The later sources are more informative on this point. A *stūr* may be any grown-up (*puṇāy*), judicious (*hōšyār*), fertile (*frazand-ēmētak*), Zoroastrian man or woman (*vēh-dēn*), who is an Iranian subject (*šāhān-šāh bandak*) and innocent of a *margarzān* sin, *Dd. Pursišn* 56, K 35, p. 202. On the other hand the serving slaves (*bandak paristār*), non-Iranians (*anēr*), non-Zoroastrians (*ak-dēn*), the *margarzān* sinners, eunuchs (*šāpistān*), prostitutes (*zan i rōspik*) and those suffering from menstrual flux are not fit for the *stūrih*. A boy or girl under age may be legally obliged to undertake *stūrih* on his (her) coming of age, *MHD.* I. 87,9—11. A *stūr* may be a *čakar* son, *MHD.* I. 41,5—8, the free half of an slave (*anšahrik*), on the authority of the then extant *Avestā*, *MHD.* I. 48,13—16, a *pātixšāy* wife, and not an already *stūr* woman, *MHD.* I. 43,9—10. The *pātixšāy* wife, however, should first be granted freedom over her person and made her own *sardār*, *MHD.* I. 3,10—11; in such a case the husband may remain her *sardār*, *MHD.* I. 49,3—6, and the procedure be supervised by the judges (*ka dastavarān apar mat kart*), *MHD.* I. 49,15—17. A man is entitled to contract many *stūrihs*, *MHD.* I. 50,6—7: ... *mart pat vas stūrih šāyēt*, *Dd. Pursišn* 56; but a woman cannot contract more than one *stūrih*, *MHD.* I. 43,8—11; *Dd. Pursišn* 56. According to the *Pers. Riv.* II. 46 a man may contract as many as forty *stūrihs* and can render all the deceased concerned able to pass the *Činvat* Bridge (*pul-guzār*).

A *stūrih* should be instituted by appointment for a free (*āzāt*), Iranian subject (*šāhān-šāh bandak*), Zoroastrian (*vēh-dēn*), who has not had a *pātixšāy* wife, male issue (*frazand*), an adopted son (*pus i patigriřtak*), or an associate brother (*brāt i hambāy*), but has left

a minimum profit-yielding property of 60 *stērs* (60 *stēr i barōmand*), *Dd. Pursišn* 55. The *Pers. Riv.* I. 174 specifies a minimum age of fifteen for the deceased — elsewhere fourteen years and three months, p. 173, i.e. fifteen years from the moment of conception.

Types of *stūrih*

Juridically there are three categories of *stūrs* or *sardārs*, namely, *būtak*, *kartak* and *gumārtak*, each having its own specific legal and proprietary rights, *Dd. Pursišn* 57; *REA. Pursišn* 5. The *MHD.* I. 26,10—12 reckons the following persons among the *būtak* type of guardians: a *pātxšāy* son, an adopted son, a designate *stūr* [*v. infra*], and an associate brother. Bearing in mind their legal obligation *būtak* may be translated as 'rightful', 'liable for', or 'at-law' [de Menasce renders it 'naturel', *Feux et fondations*, 35]. But a designate *stūr* and an adopted son who are not related by blood are, none the less, ranged under the *būtak* category of guardianship. Instances of the *būtak stūrs* are given by the *Dd. Pursišn* 57: *stūr i būtak ētōn čēgōn zan i pātxšāyihā ut duxt i ayōk-hē kē pat x'at *astišnīh stūr*. 'A *stūr-at-law* is as an authorized wife or *ayōk-hē* daughter who is [obliged to run] the *stūrih* by her own status.' (For *ayōk-hē vide infra*). From the *MHD.* I. 46,9—12 follows that the *stūr i kartak* is a *stūr* designated by the testator himself in his lifetime. The *Dd. Pursišn* 57 illustrates the *stūr i kartak* by 'adopted son'. The *REA. Pursišn* 5 explains the term *kartak* in reference to the *sardārih*: 'The *kartak* [designate] *sardār* is a person to whom the master of the house confers the *sardārih* of the family in his lifetime in proper legal manner'. These establish *kartak* as 'designate', 'deputed'. The *satar i karda* has been mentioned in the *Pers. Riv.* I. 175, however, no more in its original sense, but in the sense of the *stūr i gumārtak* [appointed *stūr*]. In default of a *stūr-at-law* or a designate *stūr* the *stūrih* is instituted by appointment. Such an *stūr* is called *gumārtak* [appointed]. In the *MHD.* I. 46,9—12 *kartak* stands in opposition to *gumārtak*; and the *MHD.* I. 44,6—8 states that a *stūr* should be appointed [*gumārišn*] for a man whose wife and children are no more suitable for his *stūrih* owing to their apostasy [*ak-dēnih*]. The appointed *stūr* has to be chosen from among the nearest relatives of the deceased, *MHD.* I. 41,2—5; *Dd. Pursišn* 55, 57; *Tansar-nāme* [*Amšāl-ō Hekam*, 1630].

The property devised for the *stūrih*

The management of the *stūrih* is financed from the property of the deceased for whom it is instituted. The proprietary rights of the *stūr* depends on his (her) legal status or category. *MHD.* I. 90,8—14: ... *ut dāristān i dūtak ut katak-bānūk ut frazand i andar dūtak zāyēt*

apāk stūr i kartak nē ōgōn apāk stūr i gumārtak ut būtak. '... and the law [concerning the relation between] the family, mistress of the house and the child born in the family [i.e. child born in *stūrih*] and a designate *stūr* is not the same as that applying to an appointed or rightful *stūr*...' A *pātxšāy* wife who functions as the family *katak-bānūk* and undertakes the *stūrih* of her deceased husband, i.e. as a *stūr-at-law* [*būtak stūr*], inherits twice as a *pātxšāy* daughter or as a son; the inherited property, held by her for the management of the *stūrih*, passes to her ownership [*x'ēših*], *MHD.* I. 62,8; *Dd. Pursišn* 53. A *pātxšāy* daughter who undertakes the *stūrih* of her deceased father also receives two portions of the legacy, *Dd. Pursišn* 53; *REA. Pursišn* 23; *Pers. Riv.* II. 56. A childless *pātxšāy* wife, a single daughter or sister who manages the *stūrih* of the husband, father or brother inherits all the property left by the deceased, *REA. Pursišn* 2, 3, 18; *Pers. Riv.* I. 187. The property settled on the designate [*kartak*] *stūr* comes down to him by inheritance, *MHD.* I. 87,13: *stūr i kartak pat hān [i] x'āstak apar mānēt*...

In contradistinction to these the property settled on an appointed *stūr* [*gumārtak*] has to be held by him in usufruct; it is entailed on the family [*dūtak*] for the management of the *stūrih*, *MHD.* II. 40,6—9: ... *ka gōvēt ku-m x'āstak pat stūrih ō zan i (andar) dūtak stūr dāt*... *dāt bē nē bavēt*, ... *hān x'āstak* ... *pat x'ēših[i] bē ō dūtak rasēt*. '... If a person says: "I gave a property for the *stūrih* to the woman who is engaged as family *stūr*" ... giving away is not possible ... that property passes to the ownership of the family'. *MHD.* I. 96,10—13; *REA. Pursišn* 18: ... *x'āstak i stūrih kē hamāk bē nikās ut pat oyāk apāyēt dāstan ōgōn ku-š čiš-ič kamiš patiš andar nē āyēt 60 stēr [dram] hast* ... *hāč 60 stēr i [pat] bun x'āstak i stūrih uzē-nitan ut kastan nē pātxšāy* ... *hakar zan pat im stūrih* ... *frazand zāyēt, hakar pus* ... *x'āstak i stūrih bē ō im pus rasēt, pat x'ēših bē aviš apaspārišn*. 'Property [devised] for the *stūrih*, which has to be always preserved and kept intact in such a way that it does not diminish, is 60 *stērs* ... It is not allowed to spend from or diminish the 60 *stērs* which is the capital [endowed] for the *stūrih* ... If the woman (*stūr*) gives birth to a child by this *stūrih* ... if he is a son ... the property [endowed] for the *stūrih* passes to this son, it should be delivered to him as his property'. Cf. *Dd. Pursišn* 59, K 35, p. 204; *DkM.* 749,4—5; *Pers. Riv.* I. 185 [de Menasce rejects the notion of usufruct, *Feux et fondation*, pp. 40, 41, 58]. The minimum amount required for the management of the *stūrih* is 60 *stērs*. *MHD.* I. 41,8—9; I. 88,4—5 gives two-thirds of 90; The *Dd.* and *REA* both confirm the amount of 60 *stērs*, *Dd. Pursišn* 58, *REA. Pursišn* 2, 8, 18 [de Menasce reads 3 for 60, *Feux et fondations*, 39, 41, but 60 *stērs*, 33, 35]. For less than this the institution of the *stūrih* is not binding upon the relatives, *MHD.* I. 43,11—13; *Dd. Pursišn* 59; but according to *MHD.*

I. 50,5—6 the deceased deserves to have a *stūr* even if his property were not enough (*ka hambun-ič hast i nē bavadak pat stūrih šayēt, ut-aš x^aat-ič stūr gumārišn*). The property must yield profit (*barōmand*) wherefrom the expenses (*uzēnak*) of the appointed *stūr* has to be met. *Dd. Pursišn* 55: *ut-aš x^aastak 60 stēr hast i barōmand vitarān bavēt*... 'and whose is a property of 60 *stērs* that yields profit (and) is dead...'; *Dd. Pursišn* 58: ... *ka x^aastak hač ōy mānd kē-š stūr apāyēt gumārtan i-and 60 stēr i barōmand hast, adak-aš stūr patiš gumārtan frēvānih*. 'If the property left by him, for whom a *stūr* has to be appointed, is 60 profit-yielding *stērs*, then appointing a *stūr* for him by means of that (property) is a meritorious duty.' Cf. *REA. Pursišn* 18: ... 60 *stēr* i ... *bun x^aastak ... tuvān-sāmānihā barōmand dārišn, hān i hač 60 stēr vēš pat čār ut tuvān ōgōn kunišn ku barōmand bavēt. hač bar uzēnak kunēt*. '... The sixty *stērs* which is ... the capital ... should as far as possible be kept profit-yielding; that which is over 60 *stērs* should by some means and ways be rendered profit-yielding; he should spend from the profit.' The income to which an appointed *stūr* is entitled is set at 'one *srēnak masāy* and one *bāzāy masāy*' (throughout *synuok* < *srēnak*, from Av. *sraoni-masah*, V. 6. 20; cf. FO, 3 g.). This is also the salary of an appointed *sardār*; *REA. Pursišn* 18; *MHD*. I. 27,2—3. The value of this idiomatic, apparently ancient term reminiscent of the age of natural economy, is given by the *Dd.* as '4 *stērs* that is 16 *drahms* sterling [lit. of full [purity]] every month' (*har māt-ē 4 stēr i hast 16 (drahm) i purr*, *Dd. Pursišn* 55) (de Menasce reads 'c'est-à-dire 6 pūl', *Feux et fondations*, 34, and interprets *srēnak masāy* *bāzāy masāy* 'en suffisance', *ibid.*, 38). The *REA* evaluates it as daily three-fifths of a *drahm*, that is, 18 *drahms* every month (*han-dāčak i [hān] srēnak masāy bāzāy masāy pat rāh i dūtak-sardārih hān-ič i stūrih i dēnik (? zindak) har rōč-šāpān rād 3 pañ ēvak i drahm-ē purr*; *REA. Pursišn* 23). According to the FO the value of *pah srēnak masāy* is given in terms of the value of one *gōspand* as 12 *drahms*, and the **pah bāzāy masāy* as half of this, i.e. 6 *drahms*, together making 18 *drahms*: *pah *srēnak-masāy ... čēgōn nēmak i *pah bāzāy-masāy ut hān i pah srēnak-masāy čēgōn gōspand-ē arž, 12 drahm i purr*; FO XXV b. The discrepancy between the two accounts may have been caused by the scribes' carelessness. The property devised for the *stūrih* may be in the form of a slave (*anšahrik*), *MHD*. I. 69,3—7, a farm (*dastkart*), *MHD*. I. 105,5—10. The salary of an appointed *stūr* woman goes to her father, *MHD*. I. 36,12—16.

A woman may become either a *stūr* for life (*zindak stūr*), or for a limited period, i.e. for begetting one male offspring (*tan stūr*). *MHD*. I. 46,14—15; 48,10—11. I am not quite certain as to the significance of these terms. The temporary *stūrih* is attested by *MHD*. I.

46,12—14; 50,1—3. After giving birth to one male offspring the *stūrih* institution may be dissolved. *MHD*. I. 48,16—17.

The *stūrih* may be instituted by a man without male issue in his own lifetime by giving his *pātiššāy* wife in *stūrih* marriage to another man, while remaining her *sardār*, *MHD*. I. 49,3—6; 3,10—11. The children so begotten by the wife belong to the first *pātiššāy* husband, *MHD*. I. 3,15—4,1. There may be contracted a few *stūrihs* for the self-same person, *MHD*. I. 47,7—11; 46,15—47,2. The *čakarīh* (*čakar zanih*) and *ayōkēnih* form two special cases of the *stūrih* marriage institution.

a) The *čakarīh*

The word does not occur in the extant Avesta. It is, to my mind, cognate with the Ind. *chōkri/ā* (a woman [man] slave), NP. *čakar*, Prk. *chāvakadaō*, Sk. *śāvaka-ra-ka(ikā)* (slave boy [girl]). Bartholomae's derivation from Av. *čarāiti* (young woman) is impossible, *ZSR*, I. 32; *AirWb*. 581. The only explicit definition of it is given by the *Pers. Riv*. 180 ff.: 'An authorized wife (*pādašāh zan*) remarrying after her husband's death becomes his *čakar* wife and the children born of her belong to him'. Again: 'she (i.e. the *pādašāh zan*) has to be given in marriage as the serving wife of the former husband (*ba čakari-ye šōy-e pēšin ba šōy bāyad dād*, *ibid.*, 181). The term occurs in the *Mātigān* a few times in passing without being further specified in greater detail. The possibility of changing the status of *čakarīh* into that of the *pātiššāyihā* was disputed. It was practised at Dārābkart, *MHD*. I. 70,9—12, and conceded by Pusānvēh i Burzātūr Farnbagān, *MHD*. II. 40,11—14, but rejected by the office of the Magupats of Artaxšahr-X^aarraha, *MHD*. II. 40,9—11. The maintenance of the *čakar* children not belonging to the family for which the *stūrih* has been established falls on the *čakar* father, *MHD*. I. 32,15. Hence, it follows that only those *čakar* children begotten for the family (*pat dūtak zat*)⁴ have to be maintained by the family concerned, the rest, who may be adopted by the *čakar* father, do not belong to the deceased, *Š n-š*, XII,14. A *čakar* daughter may be appointed to the *stūrih* of her *čakar* father, *REA. Pursišn* 23. A *stūr* or *čakar* wife may be older than her husband, *Pers. Riv*. II. 442, from which it may be inferred that a *pātiššāy* wife should of necessity be younger than the *pātiššāy* husband. As a *pātiššāy* wife in the lifetime of the former husband, and a *čakar* wife after his death, the *katak bānūk* may dispose of the property assigned to the *stūrih* at will in accordance with the instruction of the deceased, *MHD*. I. 44,3—4. She is free to appoint her own *sardār*, *Pers. Riv*. I. 185.

⁴ *dūtak zāl* as a child born in a *stūrih* marriage, hence a *stūr* child, is attested in *MHD*. II. 35,11—12: ... *andar dūtak zāt hān-ič i čakar frazand bavēt*. ... a child begotten for (in) the family is like that of a *čakar* child (son). A *dūtak zāt* child is regarded as a male offspring (*frazand*), *MHD*. II. 35,13—14. See further *MHD*. I. 110,1—2, and *REA. Pursišn* 1.

b) The *ayōkēnīh*

The term is coined by the fusion of the beginning words of the Av. technical legal phrase *yō hē pasčāēta* 'who to him afterwards' MHD. I. 21,4 with *ō* transcribed in Phl. as *wk*, *hē* as *hy* read *ē*, and a euphonic *a* added before the beginning *y*, as *ayōg* for *yōg*. The ending *-ē* has been later modified to *-ēn* either through the obscuration of the term, or for the sake of euphony. Owing to gradual obscuration the term occurs in various forms. The *Mātiḡān* has *yōk hē*, MHD. I. 21,14; 22,1, *ayōk hē*, or *ayōkē*, MHD. I. 21,4, *ayōk kēn* MHD. I. 21,10, and *yōk hē pasčaita*, MHD. I. 22,2—3. The *Dātistān i Dēnik* gives what it had apparently been thought of as the correct transcription of the term in the Avestan alphabet *aēvōk aē* which is nothing but a mis-spelt form of *ywk hē*, Dd. *Pursišn* 53. Later the term is further corrupted into *ayōkēn*, REA. *Pursišns* 43, 44. *ayōk*, *ayōkan*, *ayōkē*, Pers. Riv. I. 180 ff., and *ayōnakē*, *Šad Dar i Bundahiš*, 157. This confirms the Parsi traditional reading *ayōk zan* as against the false *ēvak* adopted unanimously by all the Western students of Pahlavi. (De Menasce reads *ēvakēn*, *Feux et fondations*, 35.) This erroneous interpretation has seemingly been prompted by the incomplete definition of the term given by Pers. Riv., 180 ff., in turn inspired by REA, *Pursišns* 30, 44, where it speaks of a father having an only daughter and no son. Turning to the original sources in the *Mātiḡān* and *Dātistān i Dēnik* we find a completely different case. An *ayōkē* or *ayōkēn* (to accept its Phl. usage) signifies a responsible (*būtak*) *stūr*, such as a *pātiššāy* wife, MHD. I. 87,1—2: *ka govēt ku(-m tāy 10 sāl) tan pat zānīh ō tō dāt, adak-aš andar 10 sāl *ayōkēn apar ō manēt*. 'If she declares thus: I agree to marry you for ten years, then she remains bound to him by duty as an *ayōkēn* [*stūr*] with(n) [those] 10 years.' That is, if he dies within those 10 years, she should undertake his *čakarīh* within that period. Dd. *Pursišn* 55: *zan i pātiššāy kē dūtak-katak bānūk *ayōkē stūr hast zivandak*. 'A *pātiššāy* wife who is the mistress of the house (i.e. after the death of the husband) is an *ayōkē stūr* as long as she lives.' She may be a daughter under some one else's *sardārīh*, in which case the father's *ayōkēnīh* is not binding on her, and if she is under the *sardārīh* of the father she is bound to manage his *ayōkēn stūrīh*, MHD. I. 21,5—8; 1. 22,8—9: *duxt i pit pat sardārīh ō mart i šahr dāt ēstēt, *ayōkēn i pit ut brāt kam apar nē mānēt. ka-š ayōkēn i pit apar mānēt sardār hān ham, ut ka-š hān i brāt apar mānēt sardār hač nabā-nazdištān i brāt bavēt*. 'A daughter whom the father has placed under the guardianship of a citizen does no more remain bound to undertake the *ayōkēn stūrīh* of neither the father nor the brother. If she remains bound to manage the *ayōkēnīh* of the father, the guardian must also be the father himself. And if that of the brother remains binding on her, the guardian should be someone from among the brother's next-of-kin.'

She may be the youngest daughter (*duxt i pas-zāt*), MHD. I. 21,10—14; such a daughter belongs to the father as a property (*hač čēgōn x'ēš*), MHD. I. 21,15—22,1. The Dd. *Pursišn* 57 designates them as responsible (*būtak*) *stūr*s: *ut stūr i būtak ētōn čēgōn zan i pātiššāyihā ut duxt i ayōkē *kē pat x'at *astišnīh stūr... duxt kē-š šōd nēst, nē kart ēstēt, hān *ayōkē mānd ēstēt*. The *ayōkēn* may become one or two designate (*kartak*) *stūr*s, MHD. I. 47,7—11; 1. 69,3—7. A sister is not liable for the *ayōkēnīh* if there is an associate brother, MHD. I. 23,14—17, or an unmarried daughter, MHD. I. 89,17—90,1; with a *pātiššāy* wife or an adopted son or a designate *stūr* or an associate brother (*brāt i ham-bāy*) in the family the unmarried daughter is not obliged to assume the *ayōkēnīh* of the father, REA, *Pursišns*, 1, 2, 44. If there are more daughters, the *ayōkēn stūrīh* will be binding on the eldest daughter or the one who marries last, MHD. I. 41,11—13, or on the one who is most qualified for it, REA, *Pursišn*, 18. This refutes the false reading of *ēvak zan* as the case of an 'only' daughter. If there is left an only sister, she is obliged to institute an *ayōkēn stūrīh* for the deceased brother, provided she has been under his *sardārīh*, MHD. I. 22,13—23,1.

Proprietary rights

An *ayōkēn* daughter inherits as a *pātiššāy* wife who undertakes the *stūrīh* (i.e. *čakarīh*) of the *katak-x'atāy*, hence like a son, REA, *Pursišn* 44. If she is the only heir, she inherits all the property left, REA, *Pursišns* 2, 3, 18. An *ayōkēn* sister becomes an associate of the brother, MHD. I. 23,4; 1. 23,10—12. If the *ayōkē* is a designate *stūr* the property involved is devised by the designator himself, MHD. I. 47,7—11, which may even be in the form of a slave, MHD. I. 69,3—7.

3. Irregular unions

The fifth kind of wife is called by the Pers. Riv. *x'ad-rāy* explained as a daughter declaring that 'she will marry on her own', p. 181. This clearly corresponds to the *ansladdn* of the FO. 11 f.: *duxt-ē kē šōd x'at kurēt*. 'A daughter who marries on her own.' It also occurs in the MHD. I. 41,9—10 in conjunction with the *bdastan* which evidently refers to another similar case: *duxt i bdastan-zāt *hač duxt i pat ansladdnya zāt ēstēt sačāktar*. 'The daughter born of a *bdastan* [woman] is more suitable [for the *stūrīh*] than a daughter born in an *ansladdnya* [marriage]'. The explanation of the REA, *Pursišn* 43 is more enlightening: *ansladdn vičārīhēt yut āyōžišn, ut hān bavēt i ka mart i duxt-ē i purnāy hast, ut-aš pit bē xānak apar dāstan vināskar, ut zihānak yut hač dasta-varīh i pit *sardar-ē frāč girēt ut-aš zan bavēt, hān zan ansladdn xvā-nīthēt*. 'The *ansladdn* has been explained as separate union and

it is when a man has a grown-up daughter, and the father is guilty of keeping her in the house (i. e. of forbidding her to marry), and the maiden takes a guardian without the permission of the father and marries him; that woman is called *anslādān*.^{*} The *Pers. Riv.* transcribes the word variously: 'x^oad-aš-rāy is {a maiden} who rejects her father's candidate and marries a man of her own choice without the father's consent', 180; x^oad-sarāy, 181; x^oad-sālār, 184; x^oad-berāy, 185. Evidently the word is a parallel to the Av. *astātō-ratav-*, Phl. *anēstāyēnit-raiān* 'who is not dependent on the master of the family', V. 15.9. However, the transformation of *anēstāyēnitratān* > *anēsrātān* > *anisradān* seems highly improbable, though not impossible. Another possibility is to regard the word as a combination of *an-* 'other', *s-rāy* 'house' and *-ēn*, adj. ending, as *anšahrik* 'lit. who is from another country'. Lastly if we trust the traditional reading, which most often reflects the truth in spite of modifications and distortions, the first element should be emended to x^oā- with s miswritten for ā. The last constituent, then, simply reads Av. *rāda-* which occurs in the sense of 'guardian' as well as 'husband'. The combination would result an original Av. *x^oā-rāda 'self-managing, or who is her own guardian'. The MP reading of the word as x^oad-rāy and its literal translation into x^oad-sālār survives only in the *Pers. Riv.*

There are two cases of irregular unions mentioned in the *Mātiḡān* each with a different legal and proprietary rights depending on whether the fugitive daughter (sister)'s misbehaviour is occasioned by the father's neglect of duty or not. The first is mentioned in the *MHD.* I. 33,1—3: *duxt ka pat vināskārih i pit gātār kunēt ...* the other case occurs in the *MHD.* I. 24,7—10: *ka duxt apē-dastavarīh i pit gātār kunēt ... ut ka gātār hač hān i hamāyik kunēt ...* 'If a daughter cohabits with someone without the father's permission ... and if her cohabitation is of a lasting character ...' This last case was regarded as unlawful by the traditional practice, but tolerated by a certain jurisconsult falling back upon a point of the enacted civil law. *MHD.* I. 36,2—5: *apar dātistān-nāmak ōgōn nipišt ēstēt ku x^oah ut duxt ka yut hač hōnsardih i sardār tan pat zanih bē dahēt zanih *ne xūp, ut ka-č yut hač hōnsardih i sardārān frēpēnd ut nayēnd, bāt kē guft ku dātistān dahišn, bē pat kartak nē dārēnd.* The *Pers. Riv.* I. 181 also concedes the validity of an irregular union, but in agreement with the *REA.* *Pursišn* 43 maintains that the son born of an *x^oārāda wife when coming of age ought to give his mother in *pātixšāy* marriage to his father.

Another case is connected with the term *bāstan* which occurs twice in the *Mātiḡān* and also in the corrupt form *bnšcānn* in the *REA.* *Pursišn* 30 that gives for it four different definitions all of which carry the common idea of a daughter leaving the father's house. With the exception of the first which states 'a daughter who simply leaves the father's house and enters that of the husband's' the rest agree in one way or other with various definitions of *x^oārāda. Thus with regard

to its meaning we may read the word *bē-astan* [out of the house]. The first element is *bē* (out, outside) as in *bē kišvar*, *bē šahr*, the second from OI. *āsta-*, Av. *asta-*, Phl. *ast* (home, place). Bearing in mind the *Mātiḡān*'s statement having greater esteem for the *bē-astān*, *MHD.* I. 21,8—10 and her daughter, *MHD.* I. 49,9—10 than for the *x^oārāda we may characterize the *bē-astān* as such a daughter who when coming of age, and therefore being entitled to marriage, marries without the consent and in spite of her father or *sardār* (*REA*'s fourth definition), whereas the *x^oārāda daughter simply rejects her father's candidate to marry the man of her own choice — the case of *MHD.* I. 36,2—5.

Proprietary rights

The oldest reference to the proprietary rights of the *x^oārāda in *MHD.* I. 24,7—10 states that if the daughter without the father's authorization commits illicit intercourse temporarily (*nē hač hān i hamāyik*), she would not be deprived of the father's *sardārih* or legacy (*aparmānd*), but if she unauthorizedly cohabits with someone permanently, the father's legacy does not pass to her and he may appropriate her income. Another passage, *MHD.* I. 33,1—3, deals with the proprietary rights of a daughter whom we have characterized as *bē-astān*: *duxt kē pat vināskārih i pit gātār kunēt x^oarišn (ut) dārišn ka-š hač kār [ut] vindišn i x^oēš hast hač kār [ut] vindišn i x^oēš, ut ka-š (hač) kār [ut] vindišn i x^oēš nēst hač hān i pit ē bavēt.* 'If a daughter commits illicit intercourse through father's fault her food and maintenance should be provided from her own income (if it is already supplied from her own income), and if she has no income of her own, it should be provided from that of the father'. However, the *REA.* *Pursišn* 43 dealing this last case as *x^oārāda maintains that she is entitled to her own income, but the guardian [*sardār*] may withdraw his support (*kār ku-nišn i-š bavēt sardār i zihānak-ič nē x^oēš ut x^oarišn ut vastarg hačiš stanišn pātixšāy*). According to the *Pers. Riv.*, 181 ff. the x^oārāda's zan is not entitled to the parent's legacy.

Next-of-kin marriage (x^oētōdāt)

We will here deal only with those cases occurring in the *Mātiḡān* and *Riv.* of *Ēmēt i Ašavahištān* as the other sources have already been more or less studied*. Marriage between father and daughter has been referred to in the *MHD.* I. 44,8—12: *... ka-š nax^oist bahr i duxtih dāt, pas zanih kart [ut] bahr i zanih kam nē rasēt.* '... if first he (i. e. the

* Too late I recall that all chapters of the *REA* dealing with next-of-kin marriage have already been rendered into French by Father de Menance, *RHR*, 81/vol. 162, pp. 83—88.

father) gave her [i.e. the daughter] the share [of legacy] pertaining to daughterhood, then married her, the share pertaining to wifehood does no more come to her.' *MHD*. I. 44,13—14: *duxt ka-š zan kunēt, bahr i zanih nē duxtih rād hamē rasēt*... 'If [a father] marries his daughter, not the share of a wife, but the share pertaining to daughterhood comes to her.'

Marriage between brother and sister: *MHD*. II. 18,7—12: ... *ka kart ku-m ēn x'āstak pas hač 10 sāl ō pus dāt ut x'āstak [i] i-m ō pus dāt hakar pus [ut] duxt i man pat zanih kunēt pus x'ēš ē bavēt*. '... If a person settles thus: This property shall belong to the son after ten years; the property that I have [thus] given to him should belong to him, provided the son takes my daughter in marriage after ten years...' *REA*. *Pursišn* 27: *mart-ē kē-š x'ah-ē hast ut-aš andar hangām-ē guft bavēt ku: man ēn x'ah pat zanih kunam, ayāp-aš hač mātār ut pitar patigrišt bavēt ku: x'ah pat zan(ih) kun. pas nē kunēt*... 'A man who has a sister has at some time declared: "I will take this sister in marriage", or he has agreed with the mother and father [who have said]: "Marry the sister." Then he does not [do so]...' *REA*. *Pursišn* 24: *mart-ē kē-š x'ah-ē bavēt hač pitar ut mātār pat ham-dāstānīh i x'āhar frāč patigrišt ku: x'ah pat zanih kunam*... 'A man who has a sister with the sister's consent agrees with the mother and father [saying]: "I will marry the sister."'

Marriage between mother and son: *REA*. *Pursišn* 28: *x'ētōdas kē apāk mātār ut x'āhar kunēt kē-šān ēmēt i frazand-zāyīšnīh hačīš nēst, kirpak x'ētōdasīh bavandak bavēt ayāp čēgōn?* 'If a person takes his mother or sister, for whom there is no hope of having progeny, in marriage, would the merit of next-of-kin marriage be complete, or how would it be?' And lastly the *REA*. *Pursišn* 30 considering the case of a man who when virile contracts a next-of-kin marriage, but later owing to old-age or disease cannot consummate a union, maintains that: *kirpak i x'ētōdas ētōn bavēt ka-č kunišn kart*. 'The spiritual merit arising from a next-of-kin marriage is in practically performing it.'

Some essential rights and obligations of the master of the house or guardian

A father or brother may pass on the *sardārīh* [guardianship], *MHD*. I. 28,11—10. A guardian-at-law [*sardār i būtak*] may transference the *sardārīh* of the family, *MHD*. I. 26,6—7; he may not be discharged even in cases of mismanagement, *MHD*. I. 28,15—16, whereas an appointed guardian [*sardār i gumārtak*] may be disqualified, *MHD*. I. 28,17—29,1. Only the father is entitled to sell his children into slavery and that under adverse circumstances. I give the relevant passages in full as much confusion has been caused by Bartholomae's fragmentary trans-

lation, *ZSR*. V. 32. A significant passage in the *MHD*. I. 33,13—17 states: *frazand pat anšahrikīh ēvāč pit pātixšāy frōšēt, ut pat margih ut rēštakīh pātixšāy frōšēt, ēvāč pat hān i ōy i pātixšāy frōšēt, pat ašbadāt⁵ pit pat hān i x'ēš, pat-ič hān i [ōy ut] māt pat hān (i) x'at, ut pat hān i x'at ōy kē apar mat⁶ ēstēt, ut apārik sardār [pat hān i x'at kē apar mat ēstēt] frōšēt pātixšāy*. 'Only the father is authorized to sell the children into slavery; and he is authorized to sell [them] [even if thereby they are exposed] to death or laceration, and that in case of *ašbadāt* only for the sake of the person who is authorized to sell. the father is authorized to sell them for his own sake, also for the sake of the mother, for her sake, and for the sake of the person who has supervised [the children], and other guardians.' An equally drastic case is the following: *MHD*. I. 33,6—9: *zan, apurnāyak, pusakānīh, duxtakānīh, stūrih zanih ut tar-skāsīh sardārīh bē pat ašbadāt ēnyā-š nē. pat-ič pat ašbadāt pit pat hān i x'ēš, pat-ič pat hān i apārik ōyšān ut māt (kē) andar apāyēt [pat hān i x'ēš] pat hān i ōy kē apar (mat) ēstēt frōšēt pātixšāy*. 'One is not authorized to [relinquish] the wife, child under age, an adopted son or daughter, *stūrih* marriage or dutiful guardianship, unless [threatened] by [the sin of] *ašbadāt*. And [when faced] with [the sin of] *ašbadāt* the father is authorized to sell [? the children] for his own sake, also for the sake of those [persons] and the mother [for whom] it is necessary [to be sold], and for the sake of the person who has supervised [the children].' The sale of one's children is also attested in *MHD*. I. 69,17—70,2; *ka mart pus i apurnāy pat pusānīh bē dahēt ayāp pat vahāk bē frōšēt ut-aš an kas nēst stūr gumārišn*. 'If a man gives his son under age in adoption or sells him at a price [i.e. for money], and his is no one else, [on his death] a *stūr* should be appointed for him.' Otherwise, the sale of one's daughter is given in *jamāsp-nāmak*, VI, 56 as a sign of an age of adversity and wickedness (*ut duxt kē-š hačīš zāyēt pat vahāk bē frōšēt*).

A *pātixšāy* husband may divorce his *pātixšāy* wife to wed her, even without her consent, to a *vēh-dēn* without male issue, *MHD*. I. 101,4—8, or make a present of her [or give her as alms] to a man belonging to the Zoroastrian religious community [*ā-š pas dāsr dahišn i vir-masāy zan*], *DkM*. 715,7; *Nir*. 15,26—29; *V*. 4,44, or appoint her to undertake s. o.'s *stūrih*, *MHD*. I. 43,8—11, 49,15—17, etc. [*V. supra* on the *stūrih*]

⁵ For the sin of *ašbadāt* see *FO*. XXVb: **ašbadāt hān bavēt ka x'vārišn ut x'vārišn kē sud ut tišn patiš apāč dārēt*. 'The sin of *ašbadāt* is this: when one withholds food and drink from him who [suffers from] hunger and thirst.' In the text it means confronted with the sin of *ašbadāt* on account of famine, poverty, etc.

⁶ For the sense of the phrasal verb *apar matan* 'to take control, to come upon, befall, superintend, etc.' cf. *DkM*. 703,12—13: *ēn-ič ku ka vēh-ē bēš apar mat ēstēt, pat hān bēš barēnd har kas ētōn tuxšīšn čēgōn ka-š ō x'at mat ēstēt*. 'Further, when an affliction comes upon a good man for [the removal of] that affliction everyone exerts such effort as though it happened to himself.' *DkM*. 412,13—14: *Tōsar apar mat, hān i *ēvar [text, ēvak] frāč patigrišt ut apārik hač dastavar hišt*. 'Tōsar took control. He accepted that which was trustworthy and left the rest out of the canon.'

and *čakarīh*.) According to the *MHD*. II. 1,2—6 a man may have two *pātxšāy* wives, but only in case of the first wife's barrenness, *Pers. Riv.* II. 387. Thus monogamy, rarely bigamy, was practised only by the middle and lower classes. The aristocracy, however, was distinguished by plurality of wives. The *Letter of Tansar* (ed. Darmesteter, 222). The antiquity of polygamy is attested by the Av. **hapaθni* (a rival wife), *AirWb.* 1765, Phl. αβδγ, Paz. xavō, *FO*. II f., NP. *havū*, *BQ.* 2400; *vasnī*, *BQ.* 2283; **āvasnī* > *āmūsni*, *BQ.* 62. The prohibition of morganatic marriage is explicitly stated in the *Tansar-nāme* (*Amšāl-o-Ĥekam*, 1630).

However, there are certain obligations and restrictions imposed upon the master of the house or guardian. The father (brother) is obliged to maintain the wife and children (sister), *MHD*. I. 32,12—14, even the guilty daughter or slave-woman, *MHD*. I. 33,11—13, a woman without a guardian and marriage obligation, and the children born of her in his cohabitation, *MHD*. I. 36,6—9. He is not allowed to give away his wife like a property (without divorcing her), *DkM.* 715,3—4: *apar dāt (i) xʷarišn ut čiš [i] yut hač zan ō kas kē [kas] dēn i māzdēšnān stāyēt, ka-č pat bīm*. 'On the giving of food and things other than women to a person who glorifies the religion of the Mazda-worshippers, even if through danger [fear].' Since a woman may not belong to two men at the same time, *MHD*. II. 4,4—5: *Rāt-Ōhrmazd guft ku mart 2 hakanēn xʷēš ut ēvak *xʷastak vindēt ut ēvak zan; xʷastak hakanēn, ut zan ōy i vēh xʷēš*. 'Rāt-Ōhrmazd said that if two men possess [everything] in common; one gains a property and the other a woman, the property has to be held in common, [but] the woman by the better person.' Since a woman cohabiting with two men at the same time is a *margaržān* sinner, *DkM.* 723,8—9: *apar zan ke andar dō mart margaržān*. Men are not allowed to exchange their daughters or sisters for sexual intercourse, *DkM.* 714,17—19: *apar vinās (i) kanik pat kanik ... ayāp guftan ku tō ō hān i man xʷah, duxt apar rav tāy man-ič ō hān i tō apar ravam*. 'On the sin of exchanging a maiden for a maiden... or saying you lie with my sister or daughter in order that I too may lie with those of yours.' A father cannot forbid his daughter from getting married, *MHD*. I. 33,1—3 (implied); *DkM.* 414,13—14: *apar vinās i kanik hač šōy pātirānēnūtān*. A husband [master] is not authorized to punish his wife [slave] for an offence against the state [*vinās i šahr*], *MHD*. I. 98,5—6.

The status of women

Generally speaking the Sassanian woman was still treated as a property in that she was regarded as an object of transaction. She was disposed of by the *vir-masāy* contract, that is, to the amount of 500 *stērs* or 2000 *drahms*, *A Marriage Contract* [*PT*. II. 141—3]. She is often ranked with slaves, *MHD*. I. 33,11—13; I. 58,15—59,1. However, there

are more liberal views concerning women that testify to a growing tendency to improve their social status. The testimony of a woman made her own guardian and granted freedom over her own person was acceptable, *DkM.* 708,18—20. The testimony of two women was acceptable by some juriconsults, *MHD*. I. 98,1—3, but rejected by the more dogmatic traditional practice (common law), *ibid.*, and considered to be unacceptable as that of a child's or slave's, *MX*. 39,37. It is incumbent upon all men and women to marry, *DkM.* 477,15—16. Should a woman refuse to marry, she would become a *margaržān* sinner, but not so a man, § *n-š*, 10,19. However, a barren widow should not remarry, *Pers. Riv.* I. 185. A dutiful (*tarskās*) *pātxšāy* wife should pay obeisance to her husband three times a day, instead of prayer, addressing him thus: *ku-t čē apāyēt ka mēnam, gōvam, kunam, ut čē nē dānam, ku čē apāyēt ka mēnam ut gōvam ut kunam? bē gov hān čiš tāy gōvam ut kunam i tō apāyēt*... 'Tell me what is necessary for you that I should think, say and do, and what I should not know; and what is necessary for me to think, say and do in order that I might say and act according to your wish...', *Phl. Riv. Dd.*, 120,3—10; *Šad Dar i Bundahiš*, 138. A maiden cannot be given in *pātxšāy* marriage against her will, *MHD*. I. 36, 12—16. As to *stūrīh* marriage the juriconsults are divided with regard to the necessity of the daughter's consent; she is free to decide, *MHD*. I. 36,9—12: *Zurvān-dāt i Yuvān-yam guft ku ka mart ō duxt i xʷēš gōvēt ku rav ut stūrīh i vahmān kas kun, duxt pātxšāy ka nē kunēt*... 'Zurvān-dāt the son of Yuvān-yam maintained that if a man tells his daughter thus: "Go and undertake the *stūrīh* of so-and-so", the daughter is authorized not to do it...', also, *MHD*. I. 50,9—12; she must abide by her father's decision, *MHD*. I. 36,12—16: *ut apak hān i guft ku mart duxt i xʷēš i pat akāmakō (man) dīh i hān duxt pat stūrīh bē dāt pātxšāy ut pat zanīh bē dāt nē pātxšāy*... 'And concerning that which he said: a man is entitled to appoint his daughter against the will of that daughter to undertake a *stūrīh*, but not (to contract a *pātxšāy*) marriage...'. A mistress of the house (*dūtak katak-bānūk*) as a *pātxšāy* wife enjoys wider powers and certain privileges. She can manage the family affairs in conjunction with the *sardār* (if there is any after the death of the husband), *MHD*. I. 75,12—14; she may give her daughter in marriage, *MHD*. I. 23, 6—8. For her proprietary rights and the management of the *stūrīh* v. *supra* 'authorized marriage'. A maiden may be betrothed at the age of nine, but married at the age of 12, *Phl. Riv. Dd.*, 107,4—9; *Šad dar i Bundahiš*, 101; *Pers. Riv.* I. 177, 178; she should be married only when she is bodily mature (*ka pat tan mat ēstēt*), *Nir.* 8,4—11. A boy or girl under age may be engaged in a *stūrīh* marriage, *MHD*. I. 49,7—8; I. 87,9—11. A grown-up woman may be betrothed to a boy under-age, *MHD*. I. 4,1—4.

Divorce

If a *pātxšāy* wife is rendered her own *sardār* and given freedom over her person she is not thereby divorced, but given freedom to marry as his *čakar* wife a *čakar* husband, that is, to provide him with a male offspring, *MHD.* I. 3,10—11; I. 3,15—4,1. An unauthorized wife [*yutāk pātxšāyihā*], in this case an adopted daughter [*duxtak*], may be divorced by her consent, *MHD.* I. 3,11—15. According to some juriconsults and the traditional practice [*kartak*] divorce takes effect only when accompanied with dissolution of the *sardārīh*, *MHD.* I. 4,9—10: *hilišn, bāt kē guft yut hač sardār (i)h nē bavēt ... MHD.* I. 87,5—6: ... *ka-š sardārīh apāk bē nē hiliēt hilišn bē nē bavēt. MHD.* I. 87,6—9: ... *sardārīh hanjāmēnd ut pas hilišn nikiritan* '... they should dissolve [lit. bring to an end] the guardianship and then consider the divorce'. A wife may not be divorced against the law, it would involve *margaržānīh*. *Phl. Riv. Dd.* 109,12—14: *ka-š nē dastavarīhā (bē hiliēnd) bē hiliēt vinās(i) garān. bāt dastavar kē-š guft ku margaržān*. An immaculate *pātxšāy* wife may be divorced only with her consent, *REA. Pursišn* 7: ... *hač hān čēgōn apē-čārīh i zan (i) pātxšāyihā [ut] hač šōd (i) pātxšāyihā bē pat ham-dātistānīh i har 2, ēnyā hač im zan vināskārīh-ē (i) ēvarikihā paitākihēt (i) šōd apē-dātistānīh i zihānak (zihānak) hač zanih bē hiliēt pātxšāy. ...* 'On account of the indispensability of a *pātxšāy* husband to a *pātxšāy* wife (she cannot be divorced) but with mutual agreement; otherwise, if from this wife a definite sin becomes manifest, the husband is entitled to divorce the woman without her agreement.' The consent of the wife is implied in *MHD.* I. 4,1—4: *ka mart pat hōnsandīh (i) zan zan hač zanih hiliēt ...* 'If a husband divorces the wife with her consent...'; *MHD.* I. 4,13—14: *zan ... ka-š šōd pat hōnsandīh hač zanih bē hiliēt ...*

The sins rendering a wife liable to divorce without her consent are most exhaustively recounted by the *REA. Pursišn* 7: ... *jāhīh ayāp yātūkih ayāp aburt framānīh i pat hān i-š jrēčvānik kartan, ayāp tan hač ham-vastar(g)ih (i) šōd i x'ēš vināskārīhā apāč dāstan, dāstān-māh [apāk] vičārtan nē hištan, ayāp dāstān ō *vastarg i šōd šut(an), ayāp dāstān nihān kartan ut tan ō an mart dātan, ayāp-aš an vinās i margaržān hast, ayāp pat an vinās paitāk bāt(an)kē vizand i tan ut ruvān hačīš šāyēt bāt, ēnyā mart pātxšāyihā(zā) zan i x'ēš apē-hamdātistānīh i zihānak hač zanih bē hišt nē pātxšāy. 'Unless [a wife is found guilty of] whoring or sorcery or disobeying to do what is her meritorious duty or sinnfully not submitting herself unto her husband or not observing the monthly menstrual period of confinement or lying with the husband when in menses or concealing (her) menstruation or submitting herself to another man or committing some other sin involving danger to the body or soul, the husband is not allowed to divorce her *pātxšāy* wife without her consent.' According to *Phl. Riv. Dd.**

109,4—8 a wife may be divorced if she is found guilty of a sin definitely endangering the body or soul [*ka bīm pat tan ayāp hān i pat ruvān ēvar*] during which state if once she sleeps with him, she endangers the body, and if once she conceals her menstruation from him, she endangers the soul of the husband. The *Šad Dar i Bundahiš* adds the case of barrenness. But the *Pers. Riv.* 189 maintains that in case of barrenness the husband may marry a second wife without having to divorce the first. Of interest is the evidence of a *yut-dēn* such as *Ta'ālībī* [*Gurar axbāru 'l-mulūk ...*] recounting the motives for divorce as adultery, sorcery and apostasy [*Amšāl-o-Ḥikam*, 1555].

Inheritance

A property may pass on to the heirs either in a residuary legacy [*aparmānd*], or non-residuary [ordinary legacy] [*bahr*], in which case the administrators of the ordinary legacy are called *x'āstakdārs*. The *x'āstakdārīh* is explained in *MHD.* I. 61,5—7: *ka andar ziv(an)dakīh x'āstak pat bahr ... dahēt pat hān x'āstak x'āstakdār hēnd, ut-šān apām i pēš hač hān i ka-š x'āstak bē dāt stanēt vičarišn ...* 'If [the father] allots a property in his lifetime [to the heirs] ... they [the heirs] would become [thereby] ordinary legatees to that property, and they should discharge the loan that he had taken before giving that property ...' The term '*pat bahr dātan*', therefore, means 'to allot shares as ordinary legacy' which is subject to the discharge of liabilities. It stands in opposition to *aparmānd* [residuary legacy] or *pat aparmānd rasitan* [to come down in residuary legacy], *MHD.* I. 61,3—5: *katak-x'atāy ka frāč (ravēt) ut-aš x'āstak ō zan ut frazand ētōn dahēt i ka-šān pat aparmānd rasēh, adak-šān ētōn bavēh, ayāp-šān pat bahr dahēt x'āstakdār bavēnd. 'If the master of the house passes away [lit. goes aloft] and gives a property to the wife and children in such a way that it should come down to them in residuary legacies, then it shall be so concerning them; [but] if he allots them [their] shares [pat bahr dahēt], they would become non-residuary legatees [executors].'* The *MHD.* I. 62,7 contrasts the conception of *x'ēšīh* [absolute possession] with *x'āstakdārīh*: *ka govēt ku-m pat xvēšīh dāt nē pat x'āstakdārīh dāt bavēt*; and in *MHD.* I. 62,8 the portion of legacy appertaining to a *dūtak katak-bānūk*, coming down to her in absolute ownership [*bahr i x'ēšīh*], is equated to the share for the management of the *stūrīh* [*bahr i stūrīh*], and both are qualitatively characterized as residuary legacy [*aparmānd*]: *dūtak-katak-bānūk ka-š pat bahr *i x'ēšīh ... ka-š pat bahr *i stūrīh bavēt aparmānd. (Cf. Bulsara, The Laws of the Ancient Persians, p. 345 ff.)*

The wife and children cannot be disinherited, and the patrimony legally coming down to one's family cannot be alienated, *MHD.* I. 20,6—7: *ka govēt ku-m x'āstak i vitart man ō dūtak i man rasēt ō tō*

*dāt, hān i hač katak-x'atāy apar zan ut frazand *manēt nē dāt bavēt.* 'If one says: "I gave the property that on my death will pass to my family to you", that which will be left from the *katak-x'atāy* to the wife and children is not (thereupon) given.' Every *pātxšāy* wife or daughter who undertakes the *čakarīh* or *ayōkēnīh* of the deceased master of the house like a *pātxšāy* son receives two portions, and an unmarried daughter one portion, *Dd. Pursišn* 53; *REA. Pursišn* 23, *Pers. Riv.* I. 56. A childless *pātxšāy* wife or a single daughter or sister who undertakes the *čakarīh* or *ayōkēnīh* of the husband, father or brother receives all the legacy, *REA. Pursišns* 2, 3, 18; *Pers. Riv.* I. 187. The children born of an undutiful (*atarškās*) wife, after her having been declared guilty of undutifulness, do not inherit, *MHD.* II. 7,2—7. A *čakar* wife has no right to the legacy left by the *čakar* husband, nor is she maintained by him, and vice versa, *REA. Pursišns* 7,23; *Pers. Riv.* I. 56. The *čakar* sons and daughters inherit the property left by their mother as sons and daughters, that is two to one, *REA. Pursišn* 23: ... *x'āstak i zan i čakar ō šōd (i) čakar hān i šōd (i) čakar ōh zan i čakar pat vitīrišn ēvak hačīšān ō ōy (i) dūt nē rasēt ... ka zihānak vitarān (bavet) ... hakar vēš ku ēvak pus ut duxt hēnd and čand hišt mātār miyān-šan pusihā ut duxtihā baxšišn.* 'Neither the property of the *čakar* wife passes to the *čakar* husband nor that of the *čakar* husband to the wife, on either of them passing away ... In case of the wife's passing away if there are more children of both sexes, whatever the mother has left behind should be distributed among them (in accordance with the right) of sons and daughters.' However, the share of a *čakar* child is half of that appertaining to a *pātxšāy* one, *Pers. Riv.* I. 187. An adopted son inherits like a *pātxšāy* son or wife undertaking the *stūrīh* of the husband, *MHD.* I. 70,5—9. But the adoptive father's property does not pass to an adopted daughter, *MHD.* I. 70,2—3.

Sins, crimes and punishments relevant to marital
and sexual relations

The penalty for committing adultery with a married woman is 300 *stērs*, that is, 1200 *drahms*, of which 700 *drahms* is charged for violation and 500 *drahms* for rape, *MHD.* I. 73,7—9: *zan i kasan (i) apātxšāyihā gāt(an) tāvān 300 stēr; ka zan i mart-ē dužēt ut apātxšāyihā gāyēt *700 gāt(an) tāvān, 500 drahm duž(ih) rād bē dahišn.* 'The penalty for unauthorizedly committing intercourse with other people's wives is 300 *stērs*. If one steals a person's wife and unauthorizedly sleeps with her, he will make himself liable to 700 (*drahms*) as penalty for the illicit intercourse, and 500 *drahms* for the stealing.' (Bartholomae's translation 'so beträgt die Buße 700 *Stir* und außerdem 500 Drachmen für den Raub' is incorrect, *ÜSR.* 22.) The maximum penalty for rape

is fixed by the judges at 300 *stērs*: *pat *gātan tavan pat ē vičir kart i dastavarān frāy ku 300 vičartan rād vičir nē kart, MHD.* II. 15,4—5. The *REA. Pursišn* 42 gives 700 (but mistakenly *stērs* for *drahms*) as penalty for illicit intercourse. In *Pers. Riv.* I. 200 the figure 1200 *drahms* has been altered to 1200 *dram-sangs* for every act of adultery. The penalty for deflowering a child under age is 1500 *drahms*, *MHD.* I. 73,9—10: *ka apurnāyak rūnēt' 1500 drahm bē dahišn ut apurnāyak apāč apaspārišn.* Deflowering a maiden is a sin punishable by one *tanāpuhr*, *REA. Pursišn* 42, which amounts to 300 *stērs* as in the case of adultery or rape, *Š n-Š*, I. 2. Adultery is condemned in *DkM.* 486,6—9, 739,12—15: *apar ōy kē zan i šōdēnik ut hān i anēr ut apārik kē nē dastavarihā gāt gāyēt ut zan kē gāt ō anērān dahēt šusr-gumēčišnīh (ut) apārik vinās i apar im kār kunēt.* 'On the person who sleeps with a married woman, non-Iranian and all such as are not allowed to sleep with, and (on the person who) gives the woman with whom he has copulated to the non-Iranians, (and on the sin of) mixing (different) semen and other such sins that he commits through these actions.' The *Nirangistān* differentiates between the overt and covert adultery: *ka gātan dōšāram rād apākēnēt, ka āškārak apparak, ka nihān duž.* 'If one mixes with (someone) for the love of intercourse, then if he does so overtly he is a ravisher, and if covertly, he is a thief.' *Nir.* 6,20—22; 6,25—29. The *Letter of Tansar* informs us that the punishment inflicted on a robber (ravisher) (*gāšib* = *apparak*) was four times more severe than that administered to a thief (*duzd* = *duž*), *Amšāl-o-He-kam* 1929. And according to the same source the Sassanids punished adultery by cutting off the nose, *Ibid.*, 1629. It is to be noted that a free cohabitation with a woman without a guardian and marriage obligation is not considered a crime; it only imposes certain obligations on the man: he becomes her *sardār*, *MHD.* II. 31,5—8, and is obliged to maintain the woman and her children, *MHD.* I. 36,6—9. It is only when she is under someone's guardianship that an unauthorized copulation (i.e. without the guardian's permission) with her makes the man guilty of kidnapping (*tan duž*) or rape: *ka andar sardārīh i mērak gāyēt har ēvak tan duž bavēt, Nir.* 7,13—14. The *DkM.* 714,17—19 speaks of the sin of exchanging a maiden for another ... or saying you have intercourse with my sister in order than I should have with yours. Thus one cannot simply give away a woman under one's guardianship unlawfully; The *Phl. Riv. Dd.* 35,10—16 maintains that if a man gives his wife as alms (*ahlav-dāt*, i.e. with due regard to the canon laws and piety) to a person who further gives her away to another man, thereby the last two men and the woman shall all three be held guilty of the *margaržān* sin. This is attested by the *DkM.* 723,8—9: *zan kē andar dō mart margaržān.* 'A woman (co-

⁷ From Ind.-Ir. *rū-*, *lū-* 'to pluck' (B. Geiger, *A Locust's Leg*, p. 70—75).

habitting) with two men is a *margarzān* sinner.⁵ Rendering one's sperm ineffective, no matter in what manner, is itself a sin, *DkM.* 490,6—7: *kē zan i *anāpus gāyēt pat tōm vanē kartan ērāxt ēstēt*. 'Who sleeps with a barren woman shall be condemned for annihilating sperm.' And according to the *Phl. Riv. Dd.* 34,14—15 he who renders semen ineffective (*kē šusr akār bē kunēt*) is guilty to the degree of one *tanāpuhr*. Equally grave is the sin of causing the admixture of the semen of two different men (*šusr-gumēčišnīh*), such as when having intercourse with a married woman, *DkM.* 739,11—15, or a pregnant woman whose embryo is from another man (*kē-š tōhmak (i) zahak hač yut gušn*), *DkM.* 747,22—748,1. To prevent a mature maiden from getting married (*kanik hač šōd pāīrānēnītan*) is a sin, *DkM.* 714,13—14; *REA. Pursišn* 43: *mart i duxt-ē i purnāy hast, ut-aš pit bē xānak apar dāštān vināskar*... To run away from the husband and cohabit with another man is tantamount to whoring, *AVN*, 56,7—8. A woman who refuses to gratify her husband will be severely punished. *AVN* 102,3—103,6. This passage is also given by the *Dēnkart* with certain alterations (*pat haxt for apāč hišt*), *DkM.* 806,8—10. Other cases of undutifulness (*atarskāsih*) on the part of a wife and children involving *margarzānīh* are when a wife three times declares: 'I will not act as your wife', or a son to the father three times: 'I will not act as your son', or a father to the son three times: 'You are not my son', *Phl. Riv. Dd.* 108,8—10; *Pers. Riv.* 1. 189, 190; *Šad Dar i Bundahiš*, 101—2. Other sins (crimes) ranked as *margarzānīh* are the dissolution of the *stūrīh* institution (*stūrīh-škanīšnīh*), *Phl. Riv. Dd.* 122,14—123,1; *DkM.* 748,20—21, and next-on-kin marriage, *REA. Pursišn* 24; *MX* 36,2, and numerous other passages. Sexual commerce with prostitutes, non-Iranians, *margarzān* sinners and the people of the evil religion is a sin to the degree of one *xʷar*,⁶ *Nir.* 18,19—21. Of all sins sodomy is considered the gravest (*hač vinās i martōman kunēnd kun-marz garāntar*), *MX.* 36,2; it is ranked among the *margarzān* sins, *REA. Pursišn* 28: ... *har ke kun-marz kunēt margarzān (ut-aš vinās) ōgōn qarān ku-š kirpak-ič i xʷētodasih hačiš apār bē kunēt* 'Whoever commits sodomy becomes a death-deserving (sinner), the sin arising thereof is so grave that it nullifies even the merit gained by a next-of-kin marriage.' Should a husband neglect to maintain his wife, he would be held responsible for her actions, *MHD.* 11. 35,6—9: *apak hān i guft ku zan kē šōd pat ašbadāt ut daštān-māh vičārtan vināskar ka duž i kunēt duž nē zan bē šōd bavēt, ut pas ka-š girēnd aivēnak šahr rād bē drōšišn*. 'And concerning that which he said: If a woman, whose husband is guilty of keeping her hungry and thirsty with regard to the monthly menstrual period of confinement, steals, then not that wife, but the husband has to be held a thief, and if he is caught, he

should be mutilated [cauterized?] in accordance with the custom of the country (i.e. provisions of the civil law)'. Neither a husband nor a master is allowed to punish the wife or a slave for an offence against the state (*vinās i šahr*), *MHD.* 1. 98,5—6. In cases of a wife or slave (*anšahrik*) committing an offence with the knowledge of the husband or master, the penalty is charged half on the husband (master) and half on the wife (slave), *MHD.* 1. 1,4—6.

⁵ Av. *xʷara*- cf. *FO XXVa*; *Š n-š*, 1,2, Tavadia 'xʷar stēr 60', i.e. 240 dramsangs.